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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	Civ. No. CV03 00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	
vs.)	
)	DECLARATION OF TIMOTHY J.
HAWAIIAN EXPRESS SERVICE,)	HOGAN FILED IN SUPPORT OF
INC., a California corporation; et al.)	PLAINTIFF WAYNE BERRY'S
)	REPLY MEMORANDUM
)	
Defendants.)	
)	
)	

**DECLARATION OF TIMOTHY J. HOGAN FILED IN SUPPORT OF
PLAINTIFF WAYNE BERRY'S REPLY MEMORANDUM**

I, TIMOTHY J. HOGAN, am an attorney licensed to practice before all the courts of Hawaii and I make this declaration under penalty of perjury. All the statements herein are true and correct to the best of my knowledge, information and belief. If called upon to testify regarding the matters contained herein, I am competent and willing to do so.

1. When I drafted the Memorandum in Support of Plaintiff Wayne Berry's Motion to Alter or Amend Second Amended Judgment Entered on March 16, 2006 Entered in Delayed Time for Filing of an Appeal Pending Resolution of Motion for Attorneys' Fees and Costs, I requested that my assistant include the names of the employee defendants in the Motion and in the proposed draft language in the Memorandum in support.

2. After reviewing my dictated draft, I recall finding Mr. Christensen listed in the Motion and directed that this be revised to remove him. I thought I had made the similar revision in the language contained in the body of the Memorandum but apparently did not remove it. This was my oversight.

3. I met with counsel for Mr. Christensen on March 28, 2006 in what was to be a good faith attempt to resolve the matters in this case related to fees and costs. At no time did Mr. Hosoda mention this inclusion of Mr. Christensen at that time

or any other time prior to filing his Opposition to the instant Motion.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

DATED: Honolulu, Hawai'i, April 10, 2006.

/s/ Timothy J. Hogan
TIMOTHY J. HOGAN